



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

Hon. Sylvia O. Hinds-Radix
Corporation Counsel

LAUREN F. SILVER
Assistant Corporation Counsel
Labor & Employment Law Division
Phone: (212) 356-2507

October 20, 2023

By ECF

Honorable Denny Chin
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: Pitre v. City of New York, et al., 18-CV-5950 (DC)

Your Honor:

I am an Assistant Corporation Counsel in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for Defendants in the above-referenced action. Defendants seek an adjournment of the trial currently scheduled for November 1, 2023, due to the unresolved issue of Defendant Fiorentino's possible substitution. Plaintiff consents to this adjournment.

As your honor is aware, on August 11, 2023, Defendants filed a Suggestion of Death with respect to Defendant Fiorentino (Dkt. No. 82). Currently, Plaintiff's deadline to substitute Fiorentino is November 9, 2023. Defendants agreed to the September 25th and later the November 1st trial date because Defendants believed that Plaintiff's Counsel was dismissing Fiorentino with prejudice and not moving forward with substitution (Dkt. No. 86). Defendants cannot proceed to trial within the 90 day statutory period pursuant to FRE 25(a)(1) without dismissing John Fiorentino with prejudice, because doing so will result in the possibility of a second trial wherein the same exact issues are litigated. On October 11, 2023, Defendants addressed these concerns with the Court and on October 13, 2023, filed a letter outlining Defendants' position as ordered by the Court (Dkt. No. 111). Thus, Defendants request an adjournment of the trial to a mutual agreeable date after November 9, 2023.

We thank the Court for its attention in this matter.

*Application GRANTED.
Trial is adjourned
to Nov. 27, 2023,
at 9:30 am.*

/s/ Lauren F. Silver
Lauren F. Silver
Assistant Corporation Counsel

SO ORDERED.

[Signature]

USCT 10-23-2023

cc: Seamus P. Barrett, Esq. (By ECF
Derek Smith Law Group, PLLC
One Penn Plaza, Suite 4905
New York, NY 10119
Seamus@dereksmithlaw.com